

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/16/00  
BILL NO. SB 362  
OR  
SUBJECT \_\_\_\_\_

James Buchen  
(NAME)  
501 E Washington  
(Street Address or Route Number)  
Madison WI  
(City and Zip Code)

(Representing) WMC  
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/16/00  
BILL NO. SB 362  
OR  
SUBJECT \_\_\_\_\_

Senator Panzer  
(NAME)  
(Street Address or Route Number)  
(City and Zip Code) 20<sup>th</sup> District / Senate Rep. Leader

(Representing)   
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: February 16 2000  
BILL NO. SB 362  
OR  
SUBJECT Prison "Bag-as-you-go"

Shirley Krug / Mary Panzer  
(NAME)  
805 W. Hye Ave.  
(Street Address or Route Number)  
M. Wacker, WI 53218  
(City and Zip Code)

(Representing)   
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: Feb. 16, 2000  
BILL NO. Senate Bill 362  
OR  
SUBJECT \_\_\_\_\_

TRICIA YATES  
(NAME)  
33 NOB HILL DR.  
(Street Address or Route Number)  
MADISON, WI 53708  
(City and Zip Code)  
WEAC/WFT  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: \_\_\_\_\_  
BILL NO. SB 362  
OR  
SUBJECT \_\_\_\_\_

Fiscal estimates re:  
criminal penalties  
(NAME) Deputy Attorney General  
Burneatta Bridge  
(Street Address or Route Number)  
Madison, WI 53711  
(City and Zip Code)  
Attorney General Doyle  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/14/00  
BILL NO. SB 362  
OR  
SUBJECT \_\_\_\_\_

Topf Wells (pronounced top)  
(NAME)  
Rm 421 City/County Bldg  
(Street Address or Route Number)  
Madison 53709  
(City and Zip Code)  
Dane County Executive  
(Representing) Kathleen Falk

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**ROGER BRESKE**

STATE SENATOR

12th District

Capitol Address:  
 State Capitol  
 P.O. Box 7882  
 Madison, WI 53707-7882  
 (608) 266-2509

Legislative Hotline:  
 1 (800) 362-9472

Home Address:  
 8800 Hwy. 29  
 Eland, WI 54427  
 (715) 454-6575

**COMMITTEE MEETING/AGENDA**

THE CAPITOL – ROOM 201SE

February 16, 2000

**I. CALL TO ORDER**

“The hour of 10AM having arrived, I will call this meeting of the Senate Insurance, Tourism, Transportation and Corrections Committee to order. The clerk will take the role.”

**II. Senate Bill 362 Relating to: fiscal estimates for bills containing criminal penalty provisions, establishing a corrections special reserve fund and making appropriations.**

By Senators Panzer, Breske, Huelsman, George, Schultz, Risser, Roessler, Plache, Rosenzweig, Baumgart, Cowles, Erpenbach and Darling; cosponsored by Representatives Krug, Goetsch, Balow, Ladwig, Plouff, M. Lehman, Lassa, Olsen, Ryba, Bock, Boyle, Pocan, Hebl, Colon, Richards, Miller, Riley, Carpenter, Berceau, Gunderson and Sherman.

**III. Assembly Bill 590 Relating to: qualifications for endorsements authorizing the operation of a school bus.**

By Representatives Brandemuehl, Spillner, Ryba, La Fave, Kestell, Ladwig, Sykora, Stone, Musser, Hasenohrl, Kedzie, Owens, Albers, J. Lehman, Olsen, Kelso, Freese, Colon, Gronemus, Petrowski, Seratti and Vrakas; cosponsored by Senators Rosenzweig, Huelsman, Breske and Roessler.

**IV. Assembly Bill 606 Relating to: expanding the definition of “bed and breakfast establishment.”**

By Representatives Spillner, Porter, Reynolds, Ward, Hutchison, Seratti, Olsen, Hundertmark, Goetsch, Gunderson, Jeskewitz, Kaufert, Kelso, Klusman, Musser, Nass, Skindrud, Stone and F. Lasee; cosponsored by Senators Baumgart, Burke, Decker, Huelsman, Rosenzweig, Rude and Breske.

**V. Assembly Bill 385 Relating to: time limits on the service of process on the commissioner of insurance (suggested as remedial legislation by the office of the commissioner of insurance).**

Law Revision Committee.

**VI. Senate Bill 381 Relating to: special distinguishing registration plates associated with Ducks Unlimited, Inc., and making an appropriation.**

By Senator Wirch; cosponsored by Representatives Kreuser, Seratti, Handrick, Steinbrink, Turner, Kreibich, Lassa, Hoven and Hutchison.

**VII. For discussion purposes only, I have included Trans 233 on our calendar today. This rule relates to the division of land abutting a state trunk highway or connecting highway.**

- The next meeting of this committee will take place next Wednesday in Reedsburg.
- Thanks to Sen. Schultz for helping to make the arrangements.

**VIII. CLOSE PUBLIC HEARING.**

**IX. CALL TO ORDER – EXECUTIVE SESSION**

**X. CLERK WILL TAKE THE ROLL**

XI. Chair would entertain a motion to recommend Senate Bill 362 Relating to: fiscal estimates for bills containing criminal penalty provisions

XII. Chair would entertain a motion to concur in AB590 – qualifications for school bus operators.

XIII. Chair would entertain a motion to concur in AB606 – bed and breakfast bill.

XIV. Chair would entertain a motion to concur in AB385 – Law revision bill.

XV. Chair would entertain a motion to recommend SB381 – Ducks Unlimited License Plate.

XVI. Chair would entertain a motion to adopt Senate Substitute Amendment 1 to SB257 – the pre-need funeral bill. Copies were circulated earlier this week to all of your offices.

Chair would entertain a motion on final passage for SB257 as amended.

XVII. Chair would entertain a motion for concurrence in AB188 – a companion to SB177 which we passed unanimously previously in this committee. Bill relates to septic haulers and certain weight limits.



---

---

## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: [leg.council@legis.state.wi.us](mailto:leg.council@legis.state.wi.us)

---

---

DATE: February 14, 2000

TO: REPRESENTATIVE SHIRLEY KRUG

FROM: Anne Sappenfield, Staff Attorney

SUBJECT: 1999 Senate Bill 362, Relating to Fiscal Estimates for Bills Containing Criminal Penalty Provisions, Establishing a Corrections Special Reserve Fund and Making Appropriations

This memorandum, prepared at your request, describes 1999 Senate Bill 362 (hereinafter, "the bill"), relating to fiscal estimates for bills containing criminal penalty provisions, establishing a corrections special reserve fund and making appropriations.

Senate Bill 362 was introduced by Senator Panzer and others; cosponsored by you and others on February 3, 2000. The bill has been referred to the Senate Committee on Insurance, Tourism, Transportation and Corrections which is scheduled to hold a public hearing on the bill on February 16, 2000.

Senate Bill 362 is a companion bill to 1999 Assembly Bill 691 which has been referred to the Assembly Committee on Corrections and the Courts. The Assembly Committee on Corrections and the Courts has scheduled a public hearing on the bill for February 23, 2000.

### **A. PREPARATION OF FISCAL ESTIMATES FOR CRIMINAL PENALTY BILLS**

Under current law, any bill making an appropriation and any bill increasing or decreasing existing appropriations or state or general local government fiscal liability or revenues must incorporate a fiscal estimate. Specifically, such a bill must include a reliable estimate of the anticipated change in appropriation authority or state or general local government fiscal liability or revenues under the bill including, to the extent possible, projection of such changes in future biennia. Under the joint rules of the Legislature, fiscal estimates must be prepared by all state agencies receiving the appropriation, collecting the revenue, administering the program or having information concerning the subject matter of the bill. However, under current law, a bill containing penalty provisions is *exempt* from this requirement if the bill contains no other provisions requiring a fiscal estimate.

The bill repeals the exemption for bills that contain penalty provisions so that these bills would also be required to incorporate fiscal estimates.

**B. CORRECTIONAL FISCAL ESTIMATES**

The bill requires the preparation of a *correctional fiscal estimate* for all bills introduced in either house of the Legislature that do any of the following:

1. Create a criminal offense for which a sentence to a state prison or a disposition of placement in a juvenile correctional institution may be imposed.
2. Increase the period of imprisonment in a state prison or placement in a juvenile correctional facility for an existing criminal offense.
3. Require a person to be sentenced to imprisonment in a state prison or a juvenile to be placed in a juvenile correctional facility.
4. Otherwise affect a penalty provision that increases the statewide probation, parole, extended supervision or juvenile corrections population.

The bill specifies that the correctional fiscal estimate must be incorporated into a bill before any vote is taken on the bill by either house of the Legislature, if the bill is not referred to a standing committee; before any public hearing is held before a standing committee; or, if no public hearing is held, before any vote is taken by the standing committee. The correctional fiscal estimate must estimate the anticipated state fiscal liability for correctional capital and operational costs under the bill, including a projection of such costs for the fiscal year in which the bill becomes effective and the nine succeeding fiscal years.

The bill requires the Legislative Reference Bureau (LRB) to determine whether a bill draft requires a correctional fiscal estimate and to note that on the bill draft's jacket. When such a bill is introduced, the LRB must submit a copy of the bill to the Legislative Fiscal Bureau (LFB) and to the Department of Administration (DOA). The DOA must then determine which departments or agencies are responsible for preparing the correctional fiscal estimate.

The bill provides that correctional fiscal estimates must be prepared as follows:

1. The departments or agencies required to prepare the correctional fiscal estimate must submit the following to the LFB within five working days after the departments or agencies receive a copy of the bill:
  - (a) Projections of the impact on statewide probationer, prisoner, parolee, extended supervision and juvenile corrections populations.
  - (b) An estimate of the fiscal impact of such population changes on state expenditures.

- (c) A statement of the methodologies and assumptions used in making the population projections and estimates of fiscal impact.

If a specific estimate cannot be determined, the bill requires the departments or agencies to provide an estimated cost range.

2. The LFB must review the information received from the departments or agencies. The bill provides that the LFB must consult with the departments or agencies from which information was received and that the departments or agencies must provide the LFB with information necessary to complete its review, as requested by the LFB. This review must be completed within five working days from the date the LFB receives the information from the departments or agencies.

3. The departments or agencies must then prepare a correctional fiscal estimate and submit it to the LRB and the LFB within three working days after the date the LFB's review period ends. The bill provides that if a department or agency cannot make a specific estimate, the department or agency must establish assumptions, including population estimates, that allow a projection to be made and provide an estimated cost range.

4. The LFB must prepare a statement of its review of the correctional fiscal estimate and submit it to the LRB within two working days after receiving the correctional fiscal estimate.

The bill requires the Legislature to reproduce and distribute correctional fiscal estimates and the statements prepared by the LFB in the same manner as amendments are reproduced and distributed.

### **C. REQUIRED APPROPRIATION**

The bill requires the Joint Committee on Finance, before recommending a bill that requires a correctional fiscal estimate for passage, to recommend adoption of an amendment to the bill to increase the appropriation to the corrections special reserve fund. The increase must be in an amount equal to the amount of the projected corrections capital and operating costs of the bill for the fiscal year in which those costs are estimated to be the highest, multiplied by two. This requirement does not apply if the Joint Committee on Finance determines that the bill does not increase state liability for corrections capital and operational costs or if the bill already increases the appropriation to the corrections special reserve fund in an amount equal to the costs for the fiscal year in which those costs are estimated to be the highest, multiplied by two. If the Joint Committee on Finance determines that the requirement does not apply, the Committee's recommendation must be accompanied by a statement to that effect.

The bill also provides that neither house of the Legislature may vote on a bill that requires a correctional fiscal estimate unless it has adopted an amendment that increases the appropriation to the corrections special reserve fund, as recommended by the Joint Committee on Finance. This requirement does not apply to a bill for which the Joint Committee on Finance has prepared a statement that the bill does not increase corrections capital or operational costs or already contains a sufficient appropriation to the corrections special reserve fund.

Finally, the bill provides that neither house of the Legislature may vote on an amendment to the executive budget bill that meets the criteria of a bill that requires a correctional fiscal estimate unless the only provisions in the amendment that cause the amendment to meet the criteria are identical to the provisions of a bill introduced in the same legislative session for which a corrections fiscal estimate has been prepared and in which an appropriation to the corrections special reserve fund has been made, as described above.

**D. CORRECTIONS SPECIAL RESERVE FUND**

The bill establishes a corrections special reserve fund, consisting of moneys appropriated by the Legislature in certain criminal penalty bills, as described above, and earnings from that money. The principal in the fund may only be used for the following purposes:

1. Debt payments relating to adult and juvenile correctional institutions for the Department of Corrections (DOC).
2. Operational costs for the DOC.
3. Community corrections programs.

The bill specifies that the principal in the fund must *first* be used for the payment of principal and interest costs incurred in financing the acquisition, construction, development, enlargement or improvement of adult and juvenile correctional facilities and to make full payment of the amounts determined by the Building Commission that are attributable to the proceeds of obligations incurred in financing those facilities. After all those costs have been paid, the money may be used for operating costs of the DOC and community corrections programs.

The bill also specifies that all interest earnings on the money in the fund must be used for the purpose of funding child abuse prevention efforts. This money is appropriated to the Department of Health and Family Services, under the bill, and may not be used to supplant or divert other sources of funding for child abuse prevention efforts.

If you have any questions or would like further information, please contact me at the Legislative Council Staff offices.

AS:ksm:tlu:rv;ksm;wu



**Testimony of State Representative Shirley Krug  
Senate Committee on Insurance, Tourism, Transportation and Corrections  
Senate Bill 362 – The Prison “Pay-As-You-Go” Bill  
February 16, 2000**

Thank you Chairman Breske and committee members for allowing me to testify in favor of Senate Bill 362, which mandates fiscal estimates and appropriations, among other things, for new crime bills.

As Senator Panzer has testified, Wisconsin's prison population continues to soar and consequently so does the cost of our prison system. The Department of Corrections (DOC) demands and receives an ever-bigger portion of the state budget.

The state cost of our correctional system will soon outstrip that of the University of Wisconsin System. Our GPR contribution to the UW System went up 12.2% from the last biennium to this one; during that same period of time, GPR spending for Corrections rose 26.2%. Based on how resources are used, our state apparently has decided that locking up citizens is its most important function.

Wisconsin has been enjoying an economic boom for several years, and tax revenues have grown steadily. Still, our state budgets remain tight, due in large part to the costs of running prisons and constructing new ones.

In Wisconsin, lawmakers have been free to enact stiffer penalties or create new crimes without paying any attention to the burgeoning correctional system costs. That is because crime bills are the only spending bills not required to have fiscal estimates or appropriations attached.

Unlike other programs, the costs of enhanced penalties continue even if the law enacting them is revoked. Anyone convicted when the enhanced penalty is in effect will remain in prison until the sentence is completed.

The problem in Wisconsin continues to be that legislators use the wealth of the state disproportionately for bars and bricks. Local prevention programs like those preferred by the police chiefs get whatever is left, if anything. Strategies that might really take a bite out of crime in the long run apparently don't have the political appeal that "crime-du-jour" bills do.

We have offered a measure designed to inject fiscal reality into this atmosphere of prison expansion. Here are the main provisions of what I call the prison "pay-as-you-go" bill.

- That a fiscal estimate be required for any bill that would create a new crime, increase the period of imprisonment for an existing crime, or increase the period of probation or parole. Currently all bills that affect state or local costs must include such an estimate, with the exception of crime bills.
- That both houses of the Legislature are prohibited from voting on a crime bill unless an appropriation is attached.
- That the appropriation for each new crime or penalty enhancement law equal the amount of additional operational and capital costs for housing prisoners for two years.

- That the money would be set aside in a corrections special reserve fund that could only be used for debt payments on correctional facilities, operational costs for DOC, or community corrections programs.
- That any interest created by the reserve fund would be used for child abuse prevention efforts. Child abuse is a major factor in contributing to criminal behavior.

We forged this proposal with participation by staff from the Legislative Fiscal Bureau, Legislative Council, Department of Corrections and Dane County. Bipartisan supporters include Attorney General Jim Doyle; the American Federation of State, County and Municipal Employees; Wisconsin Manufacturers in Commerce; and the Wisconsin Education Association Council. Governor Thompson has stated that he supports the principle behind this bill.

The state's new "truth-in-sentencing" law took effect at the beginning of the year. That law will significantly enhance penalties for certain crimes, doubling the amount of prison time for some offenses, unless the Legislature enacts into law the findings of the committee that studied the criminal code.

However the study committee's recommendations are handled, it is imperative that we put crime bills on the same footing as every other piece of legislation that spends money. We need to determine the costs and find the dollars. If we don't, the operating expense of our prison system might put every other important goal of state government at risk.

Along with my testimony, I am distributing a copy of a Legislative Council memorandum that describes the provisions of the bill in greater detail. I am happy to respond to your questions.

#### ADDENDUM

<b>UW GPR \$</b>		<b>Corrections GPR \$</b>	
97-98	876.8 million	97-98	572.5 million
98-99	903.6	98-99	634.2
99-00	966.6	99-00	718.7
00-01	1,031.5	00-01	804.4
<i>Biennium</i>		<i>Biennium</i>	
97-99	1,780.4 million	97-99	1,206.7 million
99-01	1,998.1	99-01	1,523.1
increase	217.7	increase	316.4
percentage	+12.2%	percentage	+26.2%



**MARY E. PANZER**  
20TH DISTRICT STATE SENATOR

State Capitol: E-mail: [Sen.Panzer@legis.state.wi.us](mailto:Sen.Panzer@legis.state.wi.us)  
P.O. Box 7882 Toll-free Legislative Hotline:  
Madison, WI 53707-7882 1-800-362-9472  
Phone: 608-266-7513  
District Office:  
544 S. Main, West Bend, WI 53095  
414-335-5350 or 800-662-1227

**Senate Bill 362 “Prison Pay as you Go”**  
**Testimony before the Insurance, Tourism, Transportation and**  
**Corrections Committee**  
**2/16/2000**

**Bill’s effects:**

Current law requires fiscal estimate to be prepared for any bill that makes an appropriation or that increases or decreases existing appropriations or state or general local government fiscal liability or revenues.

Current law also requires any bill introduced in either house that appropriates money, provides for revenue or relates to taxation to be referred to the joint committee on finance before being passed.

However, a bill containing a penalty provision is exempt from the fiscal estimate requirement if it contains no other provision that requires one. So, pure penalty bills do not require a fiscal estimate even though these bills may have some of the greatest impacts on the state treasury through future correctional costs.

This bill eliminates a penalty bill’s exemption from the fiscal estimate requirement. The bill requires a correctional fiscal estimate to be prepared for any bill that does any of the following:

- creates a criminal offense that is punishable by imprisonment in a state prison or placement in a juvenile correctional institution

- increases the period of imprisonment or the period of placement in a juvenile correctional institution that may be imposed for an offense
- requires a person to be sentenced to a state prison or placed in a juvenile correctional institution
- affect a penalty provision in a way that will increase the number of people on probation, parole or extended supervision or in the juvenile correctional system

Agencies will then prepare fiscal estimates on the possible impacts of the bill. They will include their methodology with the fiscal estimate and provide the information to the Legislative Fiscal Bureau (LFB). The LFB will have five (5) working days to review the information and consult the agencies on the estimates. After this period, the agency will provide a completed correctional fiscal estimate to the LFB and the Legislative Reference Bureau (LRB). The fiscal estimate will include the anticipated state fiscal liability for the fiscal year in which the bill takes effect as well as the nine (9) successive fiscal years.

A bill requiring such fiscal estimates must have completed fiscal estimates included with it before a public hearing can be held in a standing committee, before any vote is taken in committee or before any vote is taken on the bill in either house of the legislature.

In addition, a bill that requires a correctional fiscal estimate must be referred to JFC. Before the committee recommends the bill for passage, JFC must recommend adoption of an amendment that appropriates money to a special reserve fund. An amendment would not be necessary if the bill included an appropriation to the reserve fund already. No vote may be taken on the bill in either house if this appropriation is not included in either the bill or a JFC amendment.

The special reserve fund will be used to make principal and interest payments on debt contracted by the Department of Corrections (DOC) and for community corrections programs and funding child abuse and neglect prevention programs in the Department of Health and Family Services (DHFS).

The above provisions also apply to amendments to bills such as the biennial budget bill.

### **Reasoning for the Bill:**

The last budget bill included significant increases in the correctional budget. These increases are not the product of any one law passed by the legislature, but a collection of laws that significantly increased the cost to the prison system. This is not to say that these laws are incorrect, in fact the laws that we have passed have made Wisconsin a safer place. However, as a fiscal agent of the state, the Government now has to react to a fiscal crisis in the area of correctional costs. This bill simply puts the state in a proactive position rather than a reactive one.

The Department of Corrections budget saw a nearly 10.6% increase in the current biennium, bringing the total biennial appropriation to nearly \$1.5 billion. We cannot afford another budget like this if we are to remain at the top in education and continue to provide tax relief to our citizens.

We are currently entering into a new era of criminal penalties with the introduction of "truth in sentencing" in Wisconsin. This new way of sentencing began with the new century, but will not truly be implemented until the legislature acts on the recommendations of Criminal Penalties Study Committee. I hope the two houses can hammer out their differences soon on this issue, because we need to give our judges the tools they need to make "truth in sentencing" successful.

What concerns me is that fact that we are not very clear on the fiscal effects of this new sentencing system. In fact, we may not know the true fiscal ramifications of "truth in sentencing" for years to come. While none of us can truly see into the future, we have a number of professionals who work pretty hard at predicting the future...unfortunately, they are not working on predicting the future costs of penalty provisions. This bill will require these professionals to predict the future costs of criminal penalties bills, and require the state to set resources aside to pay for these changes.

This may be one of the most important changes we can make this session to improve the budget process of the future.